

AN ORDINANCE 2006-02-09-0178

AUTHORIZING THE EXECUTION OF A CONTRACT IN THE AMOUNT OF \$150,000.00 WITH THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO DENTAL SCHOOL FOR DENTAL CARE SERVICES AT THE RICARDO SALINAS PUBLIC HEALTH CLINIC FOR THE PERIOD OCTOBER 1, 2005 THROUGH SEPTEMBER 30, 2006; AND AUTHORIZING PAYMENTS.

* * * * *

WHEREAS, as part of the FY 2006 General Fund Operating Budget, City Council authorized \$150,000.00 in support of the Ricardo Salinas Pediatric Dental Care Program; and

WHEREAS, through this collaboration, which is into its third year, the University of Texas Health Science Center at San Antonio (UTHSCSA) Dental School provides preventive and treatment services including, fluoride treatments, sealants, routine cleaning, fillings, extractions, and dental health education to children ages 1 through 14; and

WHEREAS, the program serves as an important complement to community dental health efforts because it frequently receives referrals from the San Antonio Metropolitan Health District Dental Program for the more complicated procedures and services, especially those which require general anesthesia; and

WHEREAS, the UTHSCSA Dental School will provide services for an estimated 3,800 patient visits during the period October 1, 2005 through September 30, 2006, wherein patients will receive state-of the-art care while dental residents obtain practical experience under the supervision of top dental professionals; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee is authorized to execute a contract in the amount of \$150,000.00 with the University of Texas Health Science Center at San Antonio Dental School for dental care services at the Ricardo Salinas Public Health Clinic for the period October 1, 2005 through September 30, 2006. A copy of said contract is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. Funds for this expenditure are available in Fund 11001000, General Fund, Cost Center 7001990007, Salinas Clinic, General Ledger 5201040, Fees to Professional Contractors as part of the FY06 budget.

SECTION 3. Payment not to exceed the \$150,000.00 is authorized to University of Texas Health Science Center at San Antonio Dental School and should be encumbered with a purchase order.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers and Internal order numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance shall become effective on and after February 19, 2006.

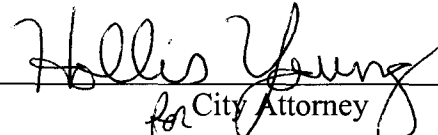
PASSED AND APPROVED this 9th day of February, 2006.



M A Y O R
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM:


for City Attorney

STATE OF TEXAS

§
§
§**RICARDO SALINAS DENTAL CLINIC
CONTRACT**

COUNTY OF BEXAR

This Contract is made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as "CITY"), a Texas municipal corporation, acting on behalf of the San Antonio Metropolitan Health District (hereinafter referred to as "SAMHD") and the University of Texas Health Science Center at San Antonio Dental School (hereinafter referred to as "SCHOOL"). CITY and SCHOOL shall collectively be referred to as "the Parties." This Agreement is entered into by the Parties pursuant to authority granted under the Interlocal Cooperation Act, being Chapter 791 of the Texas Government Code, and as authorized by City Council on _____ pursuant to Ordinance No. _____.

WHEREAS, the CITY has allocated a total of \$150,000.00 in Human Development Contingency Funds for the provision of comprehensive dental services primarily to underserved children, as well as pregnant women and teenage mothers, as needed, at the Ricardo Salinas Public Health Clinic (hereinafter referred to as "Clinic") located at 630 S. General McMullen Drive; and

WHEREAS, the CITY and the SCHOOL desire to continue to support the development of the Clinic in order to continue providing said comprehensive dental services; and

WHEREAS, the SCHOOL desires to provide these comprehensive dental services (hereinafter referred to as "Project") at the Clinic, and to continue to provide dental equipment valued at \$200,000.00 during the duration of this agreement; and

WHEREAS, the CITY also desires to provide dental services to underserved patients at the Clinic and to provide other necessary operating services;

WHEREAS, the San Antonio Housing Authority (SAHA) has formally designated the CITY to operate a health and dental clinic at the Clinic located at 630 General McMullen Drive, and SCHOOL has been assisting in providing dental services; and

ACCORDINGLY, in consideration of the mutual covenants and provisions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishments of the tasks hereinafter described.

I. TERM

- 1.1 This Contract shall commence on October 1, 2005 and shall terminate on September 30, 2006, unless earlier termination or extension shall occur pursuant to any provision hereof.
- 1.2 CITY shall have the option to renew and extend this CONTRACT for the period October 1, 2006 through September 30, 2007, subject to the availability of funds and the approval of City Council.

II. CONTRACT PRICING AND BILLING

- 2.1 The total of all payments and obligations made and incurred by CITY under this Contract, in consideration for SCHOOL's performance of services under this Contract, shall not exceed the total amount of \$150,000.00.
- 2.2 SCHOOL shall provide, oversee, administer, and carry out all activities and services in a manner satisfactory to CITY and in compliance with the Budget which is attached hereto and incorporated herein as Attachment A.
- 2.3 An initial invoice, based on the payment terms set forth in Section 2.1 of this agreement and consistent with the number of hours actually worked by SCHOOL, and/or the submission of related invoices for expenses incurred, will be billed to the CITY thirty (30) days after the effective date of the agreement. After initial billing, invoices consistent with the above will be submitted every thirty (30) days thereafter until the completion of the agreement. The information contained in such invoices shall be in such detail as may be required by CITY. CITY shall pay SCHOOL upon the delivery by SCHOOL to CITY of an invoice and the approval of said invoice by the Director of the SAMHD. Upon approval of the invoice by CITY, CITY shall pay SCHOOL no later than thirty (30) days after the date of such approval.
- 2.4 Final Payment due under the Contract will not be paid until all work, reports, data, documents and any other unfinished services necessary to complete performance under the Contract have been received, performed and are approved by the CITY, as meeting all the tasks required hereunder in Section 3.1. The CITY shall not be liable for any payment under this CONTRACT for services which are unsatisfactory or which have not been approved by the CITY.
- 2.5 CITY shall not be obligated or liable under the Contract to any party, other than SCHOOL, including any subcontractors, for payment of any monies for provision of any goods or services.
- 2.6 The SCHOOL shall be responsible for patient account activity at the Clinic to include establishing patient accounts, maintaining fee schedules, on-site collection, billing patients and third-party payers, and receiving and accounting for payments. Revenue from patient care at the Clinic will be used to support the Ricardo Salinas Pediatric Dental Care Program and will be managed in accordance with UTHSCSA policies and procedures.

III. RESPONSIBILITIES OF THE PARTIES AND SCOPE OF SERVICES

- 3.1 The SCHOOL shall provide: 1) preventive dental services to pregnant women and children ages one (1) through eighteen (18) at the Clinic to include fluoride treatment, sealants, routine cleaning, and dental health education; 2) age appropriate out-patient dental treatment to children ages three (3) through thirteen (13). In order to meet SAMHD contract requirements with San Antonio Housing Authority, the SCHOOL shall provide HOPE VI Mirasol children priority in scheduling dental services and refer HOPE VI adults seeking dental care to SAMHD.
- 3.2 CITY shall provide seven (7) dental treatment rooms, as well as ancillary and administration support space for use by SCHOOL and its staff of faculty, residents, and students. CITY shall also provide custodial service on a daily basis, excluding CITY holidays, for the entire Clinic area, CITY shall pay for utility expenses to include electricity, water and telephone service.

- 3.3 The Dental Clinic operating hours shall be Monday through Friday from 8 a.m. to 5 p.m. Appointment times shall be available on Monday from 1:00 p.m. to 4:30 p.m., on Tuesday through Thursday from 8:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 4:30 p.m., and on Friday from 8:00 a.m. to 12:00 p.m. The Dental Clinic shall be closed on UTHSCSA holidays.
- 3.4 The outcome of the Project shall be monitored on an ongoing basis and shall consist of routine standardized assessment of appropriate parameters related to oral health. The SCHOOL Program Coordinator shall collaborate with the SAMHD and the Women, Infants and Children (WIC) Program to develop a patient pool referral database.
- 3.5 SCHOOL shall provide seven dental chairs, lights, units and numerous other equipment items for use throughout the Clinic. This equipment will be tagged as SCHOOL property. Periodic maintenance or repair of SCHOOL equipment shall be the responsibility of the SCHOOL. Any maintenance or repairs required for SAMHD equipment shall be the responsibility of the CITY.
- 3.6 The Parties understand and agree that close coordination between SAMHD and the SCHOOL will be needed to insure proper and smooth operation of the Salinas Clinic. The SCHOOL shall have the responsibility of assuring effective and efficient operation of the Dental Clinic including appointment setting, and general clinic functions. SAMHD will assist the SCHOOL resolving any issues that affect the overall functions of the Salinas Clinic.
- 3.7 The Parties understand and agree that the number of patient visits shall be the main performance measure utilized throughout the SAMHD dental clinics to track performance, and that a yearly estimate of the number of patient visits is calculated for the entire dental division of the SAMHD. The Parties further understand and agree that calculations and goals for the SCHOOL'S operation, based on number of days worked and number of care providers is as follows:

Input:

| | |
|---|-----|
| Number of Days Clinic is opened to serve clients: | 185 |
| Number of Days – at least 5 dental chairs are staffed | 150 |

Output

| | |
|----------------------------|------|
| Unduplicated Dental Visits | 3800 |
|----------------------------|------|

Efficiency:

| | |
|------------------------|-----|
| % of kept appointments | 50% |
|------------------------|-----|

Effectiveness:

Number of preventive services provided:

Fluoride and Prophylaxis
 Sealants
 Routine Cleanings
 Child
 Pregnant Women
 Emergency Visits
 Sedation Visits

Number of age appropriate out-patient dental treatment provided to children ages 3- 13:
1 or 2 surface.
Resin
Extractions
Stainless steel Crowns

- 3.8 Accurate accounting of all performance measures shall be reported to SAMHD on a monthly basis, sent by the 25th of the following month.
- 3.9 The performance criteria outlined in Section 3.7 above is a non-exclusive list and CITY may consider other factors in the determination for renewal of this CONTRACT.
- 3.10 The Parties understand and agree that title to the equipment provided by SCHOOL as a part of this CONTRACT will be in the name of SCHOOL.
- 3.11 The Parties further understand and agree that upon termination or expiration of this CONTRACT, or if this CONTRACT is not renewed, title to any remaining dental equipment under this contract remains in the name of SCHOOL. Title may be transferred to any other party designated by SCHOOL. SCHOOL may, at its option and to the extent allowed by law, transfer the reversionary interest of such property to CITY.
- 3.12 SCHOOL shall return and restore all effected property at Clinic, to include walls and floors, to its original condition, except for normal wear and tear, within thirty (30) calendar days of termination or expiration of the CONTRACT, in the event that the dental equipment is removed from the Clinic upon termination or expiration of the CONTRACT.

IV. TERMINATION

For purposes of this CONTRACT, "termination" of this CONTRACT shall mean termination by expiration of the CONTRACT term or earlier termination pursuant to any of the provisions hereof.

- 4.1 **TERMINATION BY NOTICE:** The CONTRACT may be canceled by either party upon written notice, provided such notice specifies an effective date of termination, which shall be not less than thirty (30) calendar days nor more than ninety (90) calendar days from the date such notice is received by the other party. If the notice does not specify a date of termination, the effective date of termination shall be thirty (30) calendar days after receipt of the notice by the other party.
- 4.2 **TERMINATION FOR CAUSE:** Should either party default in the performance of any of the terms or conditions of this CONTRACT, the other party shall deliver to the defaulting party written notice thereof specifying the matters on default. The defaulting party shall have ten (10) calendar days after its receipt of the written notice to cure such default. If the defaulting party fails to cure the default within such ten (10) day period, this CONTRACT shall terminate at 11:59 p.m. on the tenth day after the receipt of the notice by the defaulting party.
- 4.3 **TERMINATION BY LAW:** If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein or if any law is interpreted to prohibit such performance, this CONTRACT shall automatically terminate as of the effective date of such prohibition.

- 4.4 Within thirty (30) calendar days of the effective date of termination (unless an extension is authorized in writing by the CITY), the SCHOOL shall submit to the CITY, its claim, in detail, for the monies owed by the CITY for services performed under this CONTRACT through the effective date of termination.
- 4.5 In the event that through action or no action initiated by the City of San Antonio, the CITY'S legislative body does not appropriate funds for the continuation of this contract and has no funds to do so from other sources, this contract may be terminated. To effect this termination, the CITY shall, 30 days prior to the period for which funds are not appropriated, send the SCHOOL written notice stating that the City of San Antonio failed to appropriate funds. Lack of funding is not and shall not be considered a breach of this CONTRACT.

V. INDEPENDENT CONTRACTOR

- 5.1 It is expressly understood and agreed that the SCHOOL shall be responsible for its respective acts or omissions and that the CITY shall in no way be responsible therefore, and that neither party hereto has authority to bind the other or to hold out to third parties that it has the authority to bind the other.
- 5.2 Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of employer-employee, principal-agent, partners, joint venture, or any other similar such relationship, between the parties hereto.
- 5.3 Any and all of the employees of the SCHOOL, wherever located, while engaged in the performance of any work required by the CITY under this CONTRACT shall be considered employees of the SCHOOL only, and not of the CITY, and any and all claims that may arise from the Workers' Compensation Act on behalf of said employees while so engaged shall be the sole obligation and responsibility of the SCHOOL.

VI. CONFIDENTIALITY

- 6.1 The Parties acknowledge that in connection with the services to be performed under this Agreement by the Parties and their physicians or dentists, the Parties and their physicians or dentists may be acquiring and making use of certain confidential information of the other party which includes, but is not limited to, management reports, financial statements, internal memoranda, reports, patient lists, and other materials or records of a proprietary nature (hereinafter referred to as "Confidential Information"). Therefore, in order to protect the Confidential Information, the Parties and their employees and dentists or physicians shall not after the date hereof use the Confidential Information except in connection with the performance of services pursuant to this Agreement, or divulge the Confidential Information to any third party, unless the other party consents in writing to such use or divulgence or disclosure is required by law. In the event that one party receives a request or demand for the disclosure of Confidential Information, that party shall immediately provide written notice to the other party of such request or demand, including a copy of any written element of such request or demand.
- 6.2 The Parties agree to adequately instruct their employees, physicians or dentists, and all personnel that may provide services pursuant to this Agreement, regarding the confidentiality and privacy of patients and patients' medical records. All such instructions shall be in accordance with the formal policies and rules of the other party and with all federal and state laws and regulations regarding

patient and medical record confidentiality, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA).

VII. RECORDS

- 7.1 The SCHOOL is the custodian of records for client care received at the SCHOOL Salinas Dental Clinic.
- 7.2 The Parties understand and agree that STATE of TEXAS Vital Records Rules and Regulations will be enforced and monitored. SAMHD reserves the right to request and review dental medical records of patients seen at the SCHOOL Salinas Dental Clinic. In addition, the Parties understand and agree that it may be necessary to share information regarding dental records and other related documents in an effort to provide care to the patients being treated in the SCHOOL dental clinic and/or SAMHD clinics.
- 7.3 SAMHD and the SCHOOL will enter into a HIPPA business associate agreement concerning transfer of client medical record information which is incorporated herein for all purposes as (Exhibit A).

VIII. MODEL PROGRAM OR RESEARCH

- 8.1 In the event that the Project is used as a model program for research or similar purposes, the Parties shall each receive credit for their respective contributions and shall work together in the spirit of benefiting the community to enhance the creation of such model program, research, or similar purpose.
- 8.2 SCHOOL and CITY shall develop mutually agreed upon written guidelines which set forth the specific role of each party in carrying forward a model program, research project, or similar purpose.

IX. ACCOUNT OF FUNDS BY CONTRACTOR

- 9.1 SCHOOL understands and agrees that it shall maintain a numbered account for the receipt and disbursement of all funds received pursuant to this CONTRACT and further agrees that all checks and withdrawals from such account shall have itemized documentation in support thereof pertaining to the use of funds provided under this CONTRACT.
- 9.2 SCHOOL agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this CONTRACT. SCHOOL further agrees:
- (A) that maintenance of said records shall be in compliance with all terms, provisions and requirements of this CONTRACT and with all generally accepted accounting principles; and
 - (B) that SCHOOL'S record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

9.3 As set forth in Article VII of this Contract, SCHOOL agrees to retain all books, records, documents, reports, written accounting policies and procedures and all other relevant materials (hereinafter collectively referred to as "records") pertaining to activities pertinent to this CONTRACT for a minimum of four (4) years from the completion services. CITY shall have access to the records at all times upon reasonable notice.

9.4 CITY agrees to provide SCHOOL written notice regarding any expenditure by CITY that the CITY reasonably determines to be outside the permissible parameters of this CONTRACT. Said notice will provide SCHOOL thirty (30) days from receipt of said notice to cure the deficiency or refund to CITY any sum of money paid by CITY to SCHOOL determined to:

(A) have not been spent by SCHOOL strictly in accordance with the terms of this CONTRACT; or

(B) not be supported by adequate documentation to fully justify the expenditure.

9.5 Upon termination of this CONTRACT, should any expense or charge be subsequently disallowed or disapproved using the same criteria as set out in section 9.2 above as a result of any auditing or monitoring by CITY, SCHOOL shall refund such amount to CITY within thirty (30) business days of CITY's written request therefore wherein the amount disallowed or disapproved shall be specified. For purposes of this CONTRACT, the term, "business day" shall mean every day of the week except all Saturdays, Sundays and those scheduled holidays officially adopted and approved by the San Antonio City Council for City of San Antonio employees.

9.6 Upon execution of this CONTRACT or at any time during the term of this CONTRACT, the City's Director of Finance, the City Auditor, or a person designated by the Director of the SAMHD may review and approve all SCHOOL'S systems of internal accounting and administrative controls prior to the release of funds hereunder.

9.7 If SCHOOL expends \$250,000.00 or more of City dollars, then during the term of this Contract, the SCHOOL shall have completed an independent audit of its financial statements performed within a period not to exceed ninety (90) days immediately succeeding the end of SCHOOL'S fiscal year or termination of this Contract, whichever is earlier. SCHOOL understands and agrees to furnish the SAMHD with a copy of the audit report within a period not to exceed fifteen (15) days upon receipt of the report. If the amount of funds to be paid to SCHOOL in Article II of this Contract is \$250,000.00 or more, then the SCHOOL further agrees to provide a line item in its budget for a financial statement audit prepared by an independent certified public accountant. If CITY determines, in its sole discretion, that SCHOOL is in violation of the above requirements, CITY shall have the right to dispatch auditors of its choosing to conduct the required audit and to have SCHOOL pay for such audit from non-City resources. If SCHOOL expends less than \$250,000.00 of City dollars, then during the term of this CONTRACT, the SCHOOL shall complete and submit an unaudited financial statement(s) within a period not to exceed ninety (90) days immediately succeeding the end of SCHOOL'S fiscal year or termination of this CONTRACT, whichever is earlier. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by SCHOOL attesting to the correctness of said financial statement.

X. LICENSES AND CERTIFICATIONS

- 10.1 SCHOOL warrants and certifies that SCHOOL and any other person designated by it to provide services hereunder has the requisite training, license and/or certification to provide said services and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XI. CONFLICT OF INTEREST

- 11.1 SCHOOL acknowledges that it is informed that the Charter of the CITY of San Antonio and its Ethics Code prohibit a CITY officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with CITY or any CITY agency such as CITY owned utilities. An officer or employee has a "prohibited financial interest" in a contract with CITY or in the sale to CITY of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a CITY officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a CITY contract, a partner or a parent or subsidiary business entity.
- 11.2. SCHOOL warrants and certifies, and this Contract is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of CITY.

XII. INSURANCE

- 12.1 Under no circumstance will CITY accept liability for any actions or omissions of SCHOOL'S dentists or other applicable employees at Clinic arising out of this contract, or provide any coverage to said individuals through CITY'S medical malpractice insurance.

XIII. INDEMNITY

- 13.1 SCHOOL and CITY acknowledge they are political subdivision of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in Civil Practices and Remedies Code, Section 101.001 *et seq.* and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

XIV. AMENDMENT

- 14.1 This Contract, together with its authorizing ordinance and exhibits, if any, shall constitute the full and final agreement between the parties hereto.
- 14.2 Except where the terms of this Contract expressly provide otherwise, any amendment to this Contract shall not be binding on the parties unless such amendment be in writing, executed by both CITY and SCHOOL and dated subsequent to the date hereof.
- 14.3 It is understood and agreed by parties hereto, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this CONTRACT and that any

such changes shall be automatically incorporated into this CONTRACT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law. The SCHOOL expressly agrees to comply with all applicable federal, state, and local laws.

XV. NOTICE

- 15.1 Any notice required, permitted or appropriate under this CONTRACT shall be deemed sufficient if in writing and sent certified mail, return receipt requested, postage prepaid, to CITY or SCHOOL at the respective address set forth below or to any other address of which written notice of change is given:

CITY

City of San Antonio
Attn: Fernando A. Guerra, MD, MPH, Director of Health
San Antonio Metropolitan Health District
332 W. Commerce, Suite 307
San Antonio, Texas 78205
Phone: (210) 207-8731

SCHOOL

University of Texas Health Science Center at San Antonio
Attn: Dr. Kenneth L. Kalkwarf
Dental School
7703 Floyd Curl
San Antonio, Texas 78229
Phone: (210) 567-3160

XVI. LEGAL AUTHORITY

- 16.1 The person signing on behalf of SCHOOL represents and warrants and certifies that he has full legal authority to execute this Contract on behalf of SCHOOL and has authority to bind SCHOOL to all the terms, conditions, provisions and obligations contained herein.

XVII. COMPLIANCE

- 17.1 SCHOOL shall provide and perform all services under this CONTRACT in compliance with all applicable federal, state, local laws, rules and regulations.
- 17.2 The SCHOOL certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Drug-Free Workplace Rules established by the Texas Worker's Compensation Commission effective April 17, 1991. Failure to comply with the above referenced law and regulations could subject the SCHOOL to suspension of payments, termination of Contract, and debarment and suspension actions.
- 17.3 SCHOOL shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race,

color, religion, national origin, sex, age, handicap, or political belief or affiliation. Specifically, SCHOOL agrees to abide by all applicable provisions of San Antonio City Ordinance Number 69403, passed and approved May 3, 1989, on file in the City Clerk's Office, as well as UTHSCSA personnel policies and procedures. Additionally, Contractor certifies that it will comply fully with the following nondiscrimination and equal opportunity provisions:

- a. Titles VI and VII of the Civil Rights Act of 1964, as amended;
- b. Section 504 of the Rehabilitation Act of 1973, as amended;
- c. The Age Discrimination Act of 1975, as amended;
- d. Title IX of the Education Amendments of 1972, as amended; and
- e. All applicable regulations implementing those laws.

17.4 The funding level of this contract is based on the allocation to SAMHD by the City of San Antonio. The budget to this contract may be adjusted to correspond to the actual allocation awarded. In the event that any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this CONTRACT or its governing rules, regulations, laws, codes or ordinances, CITY, as the party ultimately responsible for all matters of compliance with City of San Antonio rules and regulations, shall have the final authority to render or secure an interpretation.

XVIII. VENUE AND GOVERNING LAW

18.1 **THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY LEGAL ACTION, CLAIM OR DISPUTE ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THIS CONTRACT SHALL BE IN BEXAR COUNTY, TEXAS.**

18.2 **ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

XIX. SEVERABILITY

19.1 If any clause or provision of this Contract is held invalid, illegal or unenforceable under present or future laws during the term of this Contract, including any extension and renewal hereof, it is the intention of the parties hereto that the remainder of the Contract shall not be affected thereby, and that in lieu of each clause or provision of the Contract that is held invalid, illegal or unenforceable, a new clause or provision be added, as similar in terms and content, to be legal, valid, and enforceable under the Contract.

XX. GENDER

20.1 Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXI. CAPTIONS

21.1 The captions contained in this Contract are for convenience of reference only and shall in no way limit or enlarge the terms and conditions of this Contract.

XXII. ENTIRE AGREEMENT

22.1 This Contract, together with its authorizing ordinance and exhibits, if any, embodies the final and entire agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Contract. No other agreements, oral or otherwise regarding the matters of this Contract shall be deemed to exist or to bind the parties unless same be executed in accordance with Section XIV.

XXIII SUBCONTRACTING

23.1 Any work or services contracted, subcontracted, or assigned hereunder by SCHOOL, shall be contracted, subcontracted, or assigned only by prior approval of the San Antonio City Council, as evidenced by the passage of a City Council ordinance.

EXECUTED this the _____ day of _____, 2005.

CITY OF SAN ANTONIO

Frances A. Gonzalez
Assistant City Manager

Leticia M. Vacek
City Clerk

Date

APPROVED AS TO FORM:

Michael D. Bernard
City Attorney

UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO DENTAL SCHOOL

Kenneth L. Kalkwarf, DDS, MS
Dean, UTHSCSA Dental School

H. Steve Lynch, Jr.
Executive VP for Business Affairs
Chief Financial Officer, UTHSCSA

Dr. William W. Dodge
Vice Dean
UTHSCSA Dental School

Jack C. Park, J.D.
Senior Legal Officer/Legal Affairs/UTHSCSA

Business Associate Agreement

This Business Associate Agreement ("Agreement") dated _____, 2005 (the "Effective Date"), is entered into by and between the City of San Antonio ("Health Care Provider") and University of Texas Health Science Center at San Antonio Dental School ("Business Associate").

WHEREAS, Health Care Provider is receiving and Business Associate is providing services ("Business Arrangement") that may require Business Associate to access health information that is protected by state and/or federal law;

WHEREAS, Business Associate and Health Care Provider desire that Business Associate obtain access to such information in accordance with the terms specified herein;

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specified in this Business Associate Agreement, all capitalized terms not otherwise defined shall have the meanings established for purposes of Title 45, Parts 160 and 164, of the United States Code of Federal Regulations, as amended from time to time. For purposes of clarification, the following terms shall have the definitions as set forth herein below: "Privacy Standards" shall mean the Standards for Privacy of Individually Identifiable Health Information as codified in 45 CFR Parts 160 and 164.

"Security Standards" shall mean the Security Standards for the Protection of Electronic Protected Health Information as codified in 45 CFR Parts 160 and 164.

"Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual, or with respect to which there is reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term in the Privacy Standards and in the Security Standards.

2. **Business Associate Obligations.** Business Associate may receive from Health Care Provider health information that is protected under applicable state and/or federal law, including without limitation, Protected Health Information. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards or the Security Standards if the PHI were used or disclosed by Health Care Provider in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement.

3. **Use of PHI.** Business Associate may use PHI only (i) for the purpose of performing services for Health Care Provider as such services are defined in Business Arrangement, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Health Care Provider shall retain all rights in the PHI not granted herein.

4. **Disclosure of PHI.** Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement and as permitted by law, provided that Business Associate shall in such case: (a) obtain reasonable assurances from any person to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the person or entity; (b) agree to immediately notify Health Care Provider of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Privacy Standards or the Security Standards; and (c) obtain reasonable assurances that all disclosures of PHI are subject to the principle of "minimum necessary use and disclosure," i.e., only the minimum PHI that is necessary to

accomplish the intended purpose may be disclosed. In addition, Business Associate may disclose PHI as required by law. If Business Associate discloses PHI received from Health Care Provider, or created or received by Business Associate on behalf of Health Care Provider, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Health Care Provider any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within five (5) days of the Business Associate becoming aware of such use or disclosure. Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Health Care Provider in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of this Agreement.

5. Individual Rights. If Business Associate maintains a Designated Record Set on behalf of Health Care Provider, Business Associate shall (a) permit an individual to inspect or copy PHI contained in that set about the individual under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (b) amend PHI maintained by Business Associate as requested by Health Care Provider. Business Associate shall respond to any request from Health Care Provider for access by an individual within five (5) days of such request and shall make any amendment requested by Health Care Provider within ten (10) days of such request. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying PHI may be charged. Business Associate shall accommodate an individual's right to have access to PHI about the individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 CFR § 164.526, as it may be amended from time to time, unless the regulation provides for a denial or an exception expressly applies. Health Care Provider shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Health Care Provider within five (5) days of receipt of any request for access or amendment by an individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.

6. Accounting of Disclosures. Business Associate shall make available to Health Care Provider in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Health Care Provider's request. Such accounting must be provided without cost to the individual or to Health Care Provider if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Health Care Provider and the Health Care Provider informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI.

7. Withdrawal of Consent or Authorization. If the use or disclosure of PHI in this Agreement is based upon an individual's specific consent or authorization for the use of his or her PHI, and (i) the individual revokes such consent or authorization in writing, (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standards expressly applies.

8. Records and Audit. Business Associate shall make available to Health Care Provider and to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate

on behalf of Health Care Provider for the purpose of determining Health Care Provider's compliance with the Privacy Standards and the Security Standards or any other health oversight agency, in a timely manner designated by Health Care Provider or the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Health Care Provider immediately upon receipt by Business Associate of any and all requests served upon Business Associate for information or documents by or on behalf of any and all government authorities.

9. Notice of Privacy Practices. Health Care Provider shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted and any amendments thereafter. Business Associate agrees that it will abide by the limitations of any Notice published by Health Care Provider of which it has knowledge. An amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.

10. Confidentiality. Business Associate shall take any steps required to (i) protect PHI from unauthorized uses or disclosures and (ii) maintain the confidentiality and integrity of PHI. Prior to any permitted disclosure of PHI, Business Associate shall require the person or entity to which it intends to disclose PHI to assume all of the same duties with respect to PHI that Business Associate has under this Agreement.

11. Security. Business Associate will: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Health Care Provider; ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect the information; and report any security incidents to the Health Care Provider, in accordance with the Security Standards.

12. Term and Termination.

12.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this section 12, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.

12.2 Health Care Provider shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.

12.3 Health Care Provider, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

- (a) Business Associate shall fail to observe or perform any material covenant or agreement contained in this Agreement for ten (10) days after written notice thereof has been given to Business Associate by Health Care Provider; or
- (b) A violation by Business Associate of any provision of the Privacy Standards, Security Standards, or other applicable federal or state privacy law.

12.4 Upon the termination of the Business Arrangement, either party may terminate this Agreement by providing written notice to the other party.

12.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Health Care Provider or to destroy all PHI received from Health Care Provider or otherwise through the performance of services for Health Care Provider, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy,"

Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Health Care Provider to terminate the Business Arrangement.

13. Miscellaneous.

Notice. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; or (c) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below:

| | |
|--|-------------------------------|
| HEALTH CARE PROVIDER: | BUSINESS ASSOCIATE: |
| City Clerk | UTHSCSA Dental School |
| City of San Antonio | Attn: Dr. Kenneth L. Kalkwarf |
| P.O. Box 839966 | 7703 Floyd Curl |
| San Antonio, Texas 78283-3966 | San Antonio, Texas 78229 |
| | |
| AND | |
| | |
| City of San Antonio | |
| San Antonio Metropolitan Health District | |
| Director | |
| 332 W. Commerce, Suite 307 | |
| San Antonio, Texas 78205 | |

13.1 **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Health Care Provider shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Health Care Provider, without the prior approval of Business Associate.

13.2 **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Health Care Provider relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangement or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangement comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

13.3 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

13.4 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

14. **Indemnification**

14.1 ***BUSINESS ASSOCIATE WILL INDEMNIFY, DEFEND AND HOLD HEALTH CARE PROVIDER AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BUSINESS ASSOCIATE OR SIMILAR BREACH BY RECIPIENTS ("CLAIM"). IF BUSINESS ASSOCIATE ASSUMES THE DEFENSE OF A CLAIM, HEALTH CARE PROVIDER SHALL HAVE THE RIGHT, AT ITS EXPENSE, TO PARTICIPATE IN THE DEFENSE OF SUCH CLAIM, AND BUSINESS ASSOCIATE SHALL NOT TAKE ANY FINAL ACTION WITH RESPECT TO SUCH CLAIM WITHOUT THE PRIOR WRITTEN CONSENT OF HEALTH CARE PROVIDER.***

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Health Care Provider:
CITY OF SAN ANTONIO
San Antonio Metropolitan Health District

Frances A. Gonzalez
Assistant City Manager

ATTEST:

Leticia M. Vacek
City Clerk

Date

APPROVED AS TO FORM:

Michael D. Bernard
City Attorney

Business Associate:
**UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER AT SAN ANTONIO
DENTAL SCHOOL**

Kenneth L. Kalkwarf, DDS, MS
Dean, UTHSCSA Dental School

Date

H. Steve Lynch, Jr.
Executive VP for Business Affairs
Chief Financial Officer, UTHSCSA

Dr. William W. Dodge
Vice Dean
UTHSCSA Dental School

Jack C. Park, J.D.
Senior Legal Officer/Legal Affairs/UTHSCSA

RICARDO SALINAS CLINIC PROGRAM BUDGET - FY 2006

| PERSONNEL | ANNUAL SALARY | % BENEFITS | BENEFIT COSTS | TOTAL PERSONNEL COSTS |
|--|---------------------|------------|---------------------|-----------------------|
| Pediatric Dentistry Faculty | \$110,000.00 | 30% | \$33,000.00 | \$143,000.00 |
| First Year Pediatric Dentistry Resident | \$31,500.00 | 30% | \$9,450.00 | \$40,950.00 |
| Second Year Pediatric Dentistry Resident | \$31,500.00 | 30% | \$9,450.00 | \$40,950.00 |
| Dental Clinic Coord/Manager | \$24,773.00 | 35% | \$8,671.00 | \$33,444.00 |
| Dental Assistant II | \$19,776.00 | 35% | \$6,922.00 | \$26,698.00 |
| Dental Assistant II | \$19,976.00 | 35% | \$6,992.00 | \$26,968.00 |
| Dental Assistant II | \$19,776.00 | 35% | \$6,922.00 | \$26,698.00 |
| Dental Assistant II | \$19,176.00 | 35% | \$6,712.00 | \$25,888.00 |
| OPC Clerk | \$24,440.00 | 35% | \$8,554.00 | \$32,994.00 |
| Dental Assistant II | \$24,000.00 | 35% | \$8,400.00 | \$32,400.00 |
| Dental Assistant/Rover | \$24,000.00 | 35% | \$8,400.00 | \$32,400.00 |
| Dental Maintenance Personnel | \$7,000.00 | 35% | \$2,450.00 | \$9,450.00 |
| PERSONNEL TOTAL | \$355,917.00 | | \$115,923.00 | \$471,840.00 |

| | | | | |
|----------------------|--|--|--|---------------------|
| PERSONNEL | | | | \$471,840.00 |
| SUPPLIES | | | | \$72,000.00 |
| ADDITIONAL EQUIPMENT | | | | \$25,000.00 |
| GRAND TOTAL | | | | \$568,840.00 |